# Fairmont Prep KT --- Berkeley --- Affirmative vs. College Prep

## 1AC

**Overview Card**

**Humanity is moving in the wrong direction.**

**Brauer 19** [Jurgen Brauer, Emeritus Professor @ Augusta University, 1-1-2019, Mass Atrocities and their Prevention, College of the Holy Cross, Mass Atrocities and their Prevention, https://crossworks.holycross.edu/cgi/viewcontent.cgi?article=1169&context=econ\_working\_papers, Willie T.]  
Abstract: Counting conservatively, and ignoring physical injuries and mental trauma, data show about **100 million** mass atrocity-related deaths since 1900. Occurring in war- and in peacetime, and of enormous scale, severity, and brutality, they are geographically widespread, occur with surprising frequency, and can be long-lasting in their adverse effects on economic and human development, wellbeing, and wealth. As such, they are a major economic concern. This article synthesizes very diverse and widely dispersed theoretical and empirical literatures, addressing two gaps: a “mass atrocities gap” in the economics literature and an “economics gap” in mass atrocities scholarship. Our goals are, first, for noneconomists to learn how economic inquiry contributes to understanding the causes and conduct of mass atrocities and possibly to their mitigation and prevention and, second, to survey and synthesize for economists a broad sweep of literatures to serve as a common platform on which to base further work in this field.

**Revitalization**

**While the ICC has the potential to be a powerful force for justice, it is currently failing.**

**Carrasco ’15** [Salvador; PhD in Law, Professor @ the University of Ottawa; June 15; Open Global Democracy Platform; “At the ICC, there is No Deterrence Without Resources,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2618259] tristan

However, **since it started** operations **in 2002, the ICC has lacked the necessary strength to fully carry out its mandate. The Court lacks the political, diplomatic and financial support necessary to fulfill what it was created to do**. One highly problematic aspect in particular is the relationship between the ICC and the UN Security Council (UNSC). ¶ The UNSC, so far, has referred only two situations to the Court: one in Darfur (Sudan) and the other one in Libya. In the ten years since the Darfur case opened, six arrest warrants have been issued. However, only one defendant has actually faced the Court; four of those indicted are still free, one died prior to arrest, and the government of Sudan continues to reject the jurisdiction of the ICC. Even more concerning is the fact that **various UN member states**, **and even state parties to the Rome Statute, have refused to comply with the arrest warrants**—especially against the president of Sudan, Omar Al Bashir, who faces charges of genocide, crimes against humanity and war crimes. ¶ The fact that Al Bashir continues to travel so freely **strongly undermines any deterrent effect the Court could hope to have on other heads of state**. After the first arrest warrant was issued on March 9, 2009, Al Bashir has traveled to 17 countries, all members of the UN, and none has arrested him. In practice, who would dare to arrest a sitting president? But in turn, what does this say about the power and influence of the Security Council that referred the Darfur case to the ICC? The fact that Al Bashir continues to travel so freely strongly undermines any deterrent effect the Court could hope to have on other heads of state. Clearly, the consequences of an ICC warrant do not appear very dire. ¶ The relationship with the Council goes beyond the issue of lack of cooperation. **Another persistent,** unresolved **problem is the budget for ICC investigations**. According to the Rome Statute, **the states that have joined the Court fund its operation**s. But, when it comes to situations referred by the Security Council, it´s the UN that should bear the financial burden. In practice, however, this has not been the case. ¶ **The UN has not contributed nearly enough resources,** **which has forced the prosecutor’s office to make some difficult decisions**. Last December, for example, the **Chief ICC Prosecutor** Fatou Bensouda **announced** regarding Darfur that **she was** provisionally "**shifting resources to other urgent** **cases**", a decision that was **also due to the fact that there had been no co-operation** from the Security Council on the Darfur cases.¶ This problem of funding became more evident in May 2014, when the UNSC discussed the possibility of referring the situation in Syria to the ICC. France presented a draft resolution that included more than 60 co-sponsoring countries. This was seen as an opportunity for the ICC to intervene in one of the most serious human rights crises of the day, but the resolution was vetoed by Russia and China. In reality, had it passed, it might have simply weakened the international justice system. **Without appropriate resources, political support, or even the possibility to carry out suitable investigations or arrests, what could the outcome possibly** have **be**en? **What deterrent effect could the Court hope to have?¶** In the debate, **several states highlighted the inconsistencies** the proposed referral posed to the international justice system. First, some noted that the Council has not been consistent when it comes to referring situations, especially on the question of the Occupied Palestinian Territories (despite the Goldstone Report in 2009, which found that Israel had committed war crimes). This **inconsistency** clearly **undermines the Court’s legitimacy**. Second, state representatives raised questions about the UNSC determining beforehand who to investigate, since that jurisdiction lies with the ICC. **Why were some violators exempt and not others?** Third, since referrals are made through a resolution adopted by the UNSC, all member states of the UN should abide by it, and not only ICC state parties. A final problem noted was that the UNSC cannot decide on the financing of any referrals, as the responsibility lies with the Fifth Committee of the General Assembly

**Joining the ICC increases funding and resources.**

**Brahm 23** [Eric; Professor @ University of Arkansas; January 31; Taylor & Francis; “The evolution of funding for the International Criminal Court: Budgets, donors and gender justice,” https://www.tandfonline.com/doi/full/10.1080/14754835.2022.2156276, GZR]

Once the overall budget is set, state parties’ individual contributions are calculated. During treaty negotiations, there was a proposal to fund the Court through the United Nations. The primary opponents were the United Nations’s biggest contributors—namely the United States, Germany, and Japan—and the idea was abandoned (Schabas, Citation2020). However, assessed contributions for the Court are calculated in the same way as for the United Nations. **Per Article 117 of the Rome Statute**, “**contributions** **of** States **Parties** shall be **assessed in accordance with an agreed scale of assessment**, based on the scale adopted by the United Nations **for its regular budget and adjusted in accordance with the principles on which that scale is based**.” In other words, **states are assigned a proportion of the overall** **budget that is** essentially **based on the size of their economies**. As such, our data available on the Harvard Dataverse site show that **the ICC’s largest funders are large** European **economies**, Japan, South Korea, Australia, and Brazil.

**Additionally,**

**Bosco 13** [David; Professor @ University of Indiana, J.D. from Harvard Law School, M.Phil. from Cambridge University, BA from Harvard College; November 8; ResearchGate; “Rough Justice: The International Criminal Court in a World of Power Politics,” https://www.researchgate.net/publication/282893443\_Rough\_Justice\_The\_International\_Criminal\_Court\_in\_a\_World\_of\_Power\_Politics\_David\_Bosco\_New\_York\_Oxford\_University\_Press\_2014\_312\_pp\_2995\_cloth, accessible at: https://drive.google.com/file/d/1tLbJ2xZhv1N5FlyIU\_-e1Pk9IPENLb7M/view?usp=sharing] tristan

Throughout the book, I place particular emphasis on the relationship between the court and the United States. There are several reasons for this focus. **US opposition** to the court has been the most pronounced and articulated, and its early effort to **limit the court’s reach** was the most developed. The US stance toward the court has also changed considerably in the past decade and describing that transformation requires sustained attention. **The U**nited **S**tates also **stands alone in** terms of **its** global **interests and capabilities.** **Whether its military and intelligence resources and its diplomatic weight are deployed to assist the court is a critical factor in the institution’s trajectory.**

**Overall, the ICC is crucial to deter violence.**

**Appel ’18 writes that** [Benjamin Appel, Ph.D. in Government and Politics @ The University of Maryland & Associate Professor @ UC San Diego, January 2018, In the Shadow of the International Criminal Court, The Journal of Conflict Resolution, https://www.jstor.org/stable/pdf/48597287.pdf?refreqid=fastly-default%3A071504e3384b13dfced0cb369d3039e5&ab\_segments=0%2Fbasic\_search\_gsv2%2Fcontrol&origin=&initiator=search-results&acceptTC=1, Willie T.]

That leaders have a bundle of domestic and foreign policy interests is important because it suggests that the ICC can influence them by affecting these priorities. While critics argue that the ICC cannot deter leaders because it lacks enforcement capabilities to arrest and punish indicted subjects, they overlook how the ICC can affect the range of **interests leaders have**. This is important because it means that there are other potential ways that the ICC can alter the expected utility of repression, short of a high probability of incarceration. As long as potential perpetrators expect to pay some nontrivial costs, they will be more inclined to abide by the law because their expected payoffs for repression will be reduced.

Drawing on this logic, the primary argument advanced here is that the ICC can deter ratifiers from committing human rights abuses by inflicting a variety of costs on them across all stages of its involvement in a situation (i.e., preliminary examinations, investigations, and prosecutions). In turn, this lowers their expected utility for engaging in human rights violations.9 The Court can inflict three types of costs on potential perpetrators: (1) domestic costs, (2) international audience costs, and (3) prosecution costs. Importantly, these costs influence the primary interests that leaders have, such as their political survival, policy implementation, and international reputations. The ICC can thus deter actors from committing crimes even without imposing large formal sanctions on them. In this way, repression in the shadow of the ICC may be a suboptimal policy for ratifiers, leading them to pursue other policy alternatives to achieve their goals.

Domestic Support

Scholars studying compliance with human rights law argue that international law can constrain governments by affecting domestic support among elite actors and citizens (e.g., Conrad and Ritter 2013; Kim and Sikkink 2010; Simmons 2009).10 Theses scholars argue that human rights treaties establish standards of appropriate behavior that help domestic actors to mobilize against repressive regimes and demand that they act in accordance with clear legal standards. ICC’s involvement can likewise **influence** the **domestic support of leaders** and consequently threaten their political survival and broader policy agenda. This is because all leaders, even nondemocratic ones, require some level of domestic support to govern effectively and maintain their hold on power (Croco 2011; Weeks 2008).11 As such, the ICC can increase costs on leaders and reduce the expected benefits of repression by lowering support for them among key domestic actors.

ICC’s investigations signal to domestic actors that the government has committed grave abuses in violation of international law. This is because ICC’s involvement contributes to greater awareness among the population that the Court is investigating human rights abuses. For example, the ICC often establishes field offices to facilitate the investigation of crimes, as well as transmits radio broadcasts and engages in education/awareness seminars that explain their activities in the situation under investigation. In the Central African Republic (CAR), for instance, the ICC field offices have held workshops with the media, local nongovernmental organizations, religious leaders, and other civil society actors (Human Rights Watch 2008). The chief prosecutor also organized a series of town hall meetings to discuss the ICC’s involvement in the CAR. Likewise, in the Democratic Republic of Congo, the ICC organized ‘‘dramatic sketches’’ about the Court that were broadcast on local television (Human Rights Watch 2008). Therefore, ICC’s investigations are highly visible to both the domestic population at large and elites.

Greater scrutiny from the ICC can lead citizens to oppose their leaders themselves or push elites to challenge them. In turn, leaders may be unable to execute their preferred policies, or at the extreme, fear for their political survival when domestic actors oppose them. The Columbian government, for instance, revised plans to give amnesty to several paramilitaries and instead moved forward with trials following ICC’s involvement. Bogota reportedly changed its policy at least in part because of local media coverage of the ICC’s investigation (Grono 2008). Thus, here we see that domestic actors pushed Bogota to modify its policies following ICC’s involvement in the state, even in the form of a preliminary examination.

ICC’s involvement may also be costly to leaders because it incentivizes them to prosecute domestic actors including potential supporters. Because the ICC is a court of last resort, leaders have reasons to prosecute suspected perpetrators to avoid ICC indictments, even offenders who are important to the regime.12 As such, domestic actors may abandon or oppose leaders who target them at home. President Bashir in Sudan, for example, arrested members of the state-supported Janjaweed militia and tried some members of the group before national courts to show the Office of The Prosecutor that they were serious about domestic justice processes (Akhavan 2009). This reduced support from the militia, influencing Bashir’s ability to effectively wage war in Darfur. As Akhavan (2009, 649) concludes, ‘‘the pressures to assign blame to others have created appreciable fractures in Khartoum’s alliance with the notorious Janjaweed militia.’’

ICC’s involvement against the Guinean government also provides a useful example. In late 2009, the ICC began a preliminary examination in Guinea to investigate suspected crimes committed by the government in the 2009 Stadium Massacre that resulted in at least 150 deaths and 1,000 injuries. The government established a domestic panel of judges to investigate the situation, and it recently indicted several individuals for their involvement in the massacres (Human Rights Watch 2013). Such trials can be costly to leaders who may lose the support of key actors and/or lead opposition actors to challenge their authority. For example, Guinean citizens have protested the investigation of Claude Pivi, one of the suspects under investigation for the massacre. As one analyst claimed, ‘‘the sensitive nature of the investigation brings increased risk for those involved’’ (Human Rights Watch 2013).

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International Audience Costs¶ Potential perpetrators can suffer international costs across all stages of ICC’s involvement. The logic here is similar to work that focuses on how international actors and organizations can engage in naming/shaming and other forms of international coercion. As Krain (2012, 576) argues, ‘‘naming and shaming human rights abuses brings atrocities to light and creates common understandings of the actions of perpetrators across the international community.’’ This, in turn, can cause third parties to implement economic and political sanctions or otherwise reduce their cooperation with a targeted leader (e.g., Lebovic and Voeten 2009; Murdie and Davis 2012; Schneider 2000).¶ The ICC acts as a similar international spotlight that informs the international community about a leader’s wrongdoing. ICC’s involvement sends a signal to third parties that those being investigated have potentially committed grave human rights abuses. In turn, third parties may sanction targeted leaders, or lessen their cooperation with them, which can lead to a reduction in the benefits accrued from international cooperation (i.e., foreign direct investment, military assistance, etc.). Lower levels of international support also mean that leaders have fewer resources to provide to their supporters, eroding their base of support and potentially weakening their hold on power. As Akhavan (2001, 12) argues, ‘‘The stigmatization associated with indictment ... may significantly threaten the attainment of sustained political power.’’¶ Third parties have implemented sanctions against governments being investigated by the ICC. Shortly after the ICC started to investigate Guinea, for instance, the European Union, the African Union, and the Economic Community of West African States enacted economic sanctions and implemented an arms embargo against officials suspected to be involved in the Stadium Massacre (BBC 2009). While the incident itself certainly influenced the decision to sanction Guinea, it is notable that they all only acted after the ICC began their investigation.¶ Sudanese support for the Lord’s Resistance Army (LRA) in Uganda provides a useful illustration of how ICC indictments can reduce international support, affecting the behavior of potential perpetrators (Allen 2006). During its over twodecadelong civil war with the Ugandan government, the LRA primarily received military support from the Sudanese government including arms and safe havens. However, only four months after the Uganda government issued a referral to the ICC to investigate crimes committed by the LRA, Sudan reduced both its arms shipments and LRA bases in southern Sudan.13 Shortly thereafter, the United Nation’s Office for the Coordination of Humanitarian Affairs issued a report stating that ‘‘Since July [2004], ‘ ... that the LRA had been significantly weakened and that the war was about to end.’’’ While there are likely multiple causes of the LRA’s decline, many commentators argue that by severing its ties, Sudan significantly weakened the rebel group (Akhavan 2009; Allen 2006). As Akhavan (2009, 643) writes, ‘‘Despite a complex range of factors, there is a noticeable link between the ICC’s exercise of jurisdiction over the case and the LRA’s demise ... . Uganda’s referral made it more difficult for Sudan to continue supporting the LRA.’’¶ Wanted individuals may also suffer from a lack of freedom of movement following ICC’s investigations. This is because third-party leaders may incur their own international and domestic costs for supporting a wanted war criminal. These constraints can impair a leader’s ability to pursue its own domestic and foreign policy agenda or avoid capture by states friendly to the ICC. For example, while some countries have allowed indicted Sudanese President Omar al-Bashir to travel freely, other states, such as Botswana, Uganda, Libya, Malaysia, and South Africa, have all stated that they would enforce the ICC warrant against him due to diplomatic pressure (Arieff et al. 2011). Likewise, several European states issued travel bans against indicted Kenyan leaders, William Ruto and Uhuru Kenyatta, while President Obama refused to visit Kenya during his 2013 trip to Africa due to the ICC’s indictments there. Finally, third-party states may refuse to permit safe havens to wanted individuals (Gilligan 2006). Wanted war criminal Bosco Ntaganda turned himself in after evading arrest for several years in Rwanda. Some commentators argue that he surrendered because Rwanda was pressured to transfer him to the Hague (Fisher 2013).¶ Prosecution Costs

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Finally, there are the costs that are associated with ICC prosecution and incarceration. Evidence suggests that the **threat of prosecution** has influenced the decisionmaking of individuals and governments under the Court’s jurisdiction.14 According to the former chief prosecutor, Luis Moreno-Ocampo, militaries from around the world have altered their rules of engagement to be in accordance with the Rome Statute (Rosenberg 2012). Likewise, he also remarked that the ICC has influenced the behavior of individual soldiers. He claimed, for instance, that ‘‘In 2003 an Australian military pilot conducting operations in Iraq realized that if he executed the order received, he could be prosecuted in accordance with the Rome Statute. He returned to his base without dropping the bombs’’ (Prosecutor 2009).

Beyond punishment, the costs that individuals incur during trials can serve to deter them from violating international law. There is obviously the lack of freedom that individuals incur during this time. Leaders may also suffer health and financial losses during trials that can further increase their costs from a guilty verdict and/or standing trial. As Kim and Sikkink (2010, 942) argue regarding the former Chiliean dictator Augusto Pinochet, ‘‘although Pinochet was never convicted of human rights crimes, most would agree that his detention was very costly to him.’’

In Kenya, some commentators argue that the threat of ICC prosecution led some elites to refrain from using violence in the 2013 elections. In brief, the ICC indicted six individuals including the current president for committing crime against humanity following their participation in the 2007 postelectoral violence that resulted in the deaths of over 1,000 people. Although Kenyans elected one of the indicted individuals as president, Uhuru Kenyatta, in the recent elections, the ICC appears to have pushed Kenyan leaders to engage in better human rights practices. As Stephen Rapp, the US ambassador-at-large for war crimes, said at the Forum on US-ICC relations in early 2013, ‘‘The fact that these indictments have been out there has had an effect in terms of the peacefulness in this past election. No one in Kenya wants to be on the ICC arrest list.’’ Thus, despite the controversial nature of the ICC in Kenya, its presence in the country has seemingly contributed to less violence.15

**Hence, from a statistical standpoint.**

**Hortnagl 20** [Maximilian Hortnagl, MSc in Global Politics @ the London School of Economics and Political Science, August 2020, Evaluating the International Criminal Court's performance: an empirical study of the court's deterrence effects in Darfur, Sudan (MSc dissertation), MSc Global Politics at the London School of Economics, https://www.lse.ac.uk/government/Assets/Documents/pdf/masters/2020/Maximillian-Hortnagl.pdf, Willie T.]

The results from the negative binomial regression analysis in table 3 indicate that the ICC had a **deterrent effect** at the beginning of the conflict, but which greatly decreases with regard to the first arrest warrants in the situation in Darfur, Sudan. The UN Security Council referral is associated with a decrease in civilian fatalities across all three models, controlling for the other variables, and **statistically significant**. As such, the models predict almost **three times lower** civilian fatalities for the period following the referral. The deterrent effect is expected to be weaker, although not statistically significant, for the second ICC action, the opening of the investigation. Interestingly, the first arrest warrants for  Harun  and  Kushayb  are  associated  with  large  increases  in  civilian  fatalities and  are statistically significant across the three models. The predicted civilian fatalities, holding other variables constant, are at least four times higher for the period following the arrest warrants in the Harun and Kushayb case than for other periods. The first arrest warrant for president Al-Bashir follows a similar pattern, although the effect is weaker and not statistically significant across all models. The second arrest warrant for Al-Bashir is, in fact, associated with a slight decrease in civilian fatalities, holding the other variables constant. The arrest warrant for Mr. Hussein is associated with the largest decrease in civilian fatalities, controlling for the other variables, and statistically significant across all models. As such, the expected civilian fatalities for the period following the Hussein arrest warrant are estimated at just 8.4% the level for other periods. However, the results for the Hussein arrest warrant should be read with caution, given that the conflict had reduced greatly in intensity (see figure 2), most likely for other factors than ICC actions, uncontrolled for in the models. The control variables, non-civilian fatalities and news coverage, are almost perfectly  correlated with civilian fatalities across the three models, albeit not statistically significant.

**This is crucial now more than ever.**

**Bellamy ’18** [Alex Bellamy, Professor of Peace and Conflict Studies at The University of Queensland, December 2018, Holding Back the Tide: Genocide Prevention in Our More Violent World, Genocide Studies and Prevention, https://digitalcommons.usf.edu/cgi/viewcontent.cgi?article=1563&context=gsp, Willie T.]

But for all the progress that was made in building barriers against genocide – and we should not shy away from acknowledging that significant progress was indeed made – we find ourselves facing a major problem. History is taking its revenge. Since the start of the ‘Arab Spring’ in early 2011, global trends in mass violence have moved consistently in the **wrong direction**. The number of armed conflicts has increased. Some reports suggest a **six hundredfold increase** in the annual number of civilian casualties in war. Atrocity crimes are committed with increasing **regularity**. Perpetrators exhibit a confidence **bred of impunity**. Forced displacement – both internal and international – has reached levels not seen since the end of the Second World War. The basic fact of increasing mass violence is not our only problem. Wherever we look, the forces that promoted human rights, human dignity and human protection and the sense of our common humanity that gave rise to mutual aid are in seeming retreat. Meanwhile, the forces of racism, xenophobia, nationalism, and what Martin Ceadal called “warism” – ideas that are the very **life blood of genocide** – seem to be everywhere on the march.3 Today, we confront a global crisis in which the progress we have made in winding back the tyranny of genocide is being unraveled. Unless urgent action is taken to address the crisis, we risk repeating the mistakes of our more violent past. The stakes could not be higher. If we fail to mount a successful challenge to the march of mass violence, our world will continue to become more unstable, more divided, and more violent. What states, **international institutions**, and global civil society do next will be, quite literally, a matter of **life and death** for the world’s most vulnerable populations. In this lecture, I want to examine this global crisis and enquire into its causes and consequences. I also want to suggest some steps that can be taken to turn the tide. I want to argue that although the struggle against **genocide** and mass atrocities is today confronting an acute crisis, there are grounds for thinking that determined action can hold back the tide of hate. This can be done by reinvigorating global politics based on fundamental human rights, collective action and accountability.

**For example, in Sudan.**

**Walsh 1/16** [Declan Walsh, chief Africa correspondent for The Times, 1-16-2025, Sudan’s Military Has Used Chemical Weapons Twice, U.S. Officials Say, NYT, https://www.nytimes.com/2025/01/16/world/africa/sudan-chemical-weapons-sanctions.html, Willie T.]

Sudan’s military has used **chemical weapons** on at least two occasions against the paramilitary group it is battling for control of the country, four senior United States officials said on Thursday.¶ The weapons were deployed recently in remote areas of Sudan, and targeted members of the Rapid Support Forces paramilitaries that the army has been fighting since April 2023. But U.S. officials worry the weapons could soon be used in densely populated parts of the capital, Khartoum.¶ The revelations about chemical weapons came as the United States announced sanctions on Thursday against the Sudanese military chief, Gen. Abdel Fattah al-Burhan, for documented atrocities by his troops, including **indiscriminate bombing** of civilians and the use of **starvation** as a weapon of war.¶ The use of chemical weapons crosses yet another boundary in the war between the Sudanese military and the R.S.F., its former ally. By many measures, the conflict in Sudan has created the world’s **worst humanitarian crisis**, with as many as **150,000 people** killed, over **11 million** displaced and now the world’s **worst famine in decades**.¶ “Under Burhan’s leadership, the S.A.F.’s war tactics have included **indiscriminate bombing** of civilian infrastructure, attacks on **schools, markets**, and **hospitals**, and **extrajudicial executions**,” the Treasury Department said, using an acronym for Sudan’s armed forces.¶ General al-Burhan responded with defiance: “We are ready to face any sanctions for the sake of serving this nation, and we welcome them,” he told reporters during a visit to El Gezira state.¶ The U.S. decision is considered a significant move against a figure seen by some as Sudan’s de facto wartime leader, who also represents his country at the United Nations.¶ Aid groups fear that Sudan’s military could **retaliate** against the sanctions by further restricting aid operations in areas that are either in famine or sliding toward it. The decision could also reshape broader relations between Sudan and the United States, whose Sudan envoy, Tom Perriello, has been a leading figure in the faltering efforts to reach a peace deal.¶ Although chemical weapons were not mentioned in the official sanctions notice on Thursday, several U.S. officials said they were a key factor in the decision to move against General al-Burhan.¶ Two officials briefed on the matter said the chemical weapons appeared to use chlorine gas. When used as a weapon, chlorine can cause lasting damage to human tissue. In confined spaces it can displace breathable air, leading to suffocation and death.¶ Knowledge of the chemical weapons program in Sudan was **limited to a small group** inside the country’s military, two of the U.S. officials said, speaking on the condition of anonymity to discuss sensitive security matters. But it was clear that General al-Burhan had authorized their use, they said.¶ Sudan’s ambassador to the United Nations, Al-Harith Idriss al-Harith Mohamed, said in a text message that Sudan’s military had “never used chemical or incendiary weapons.”¶ “On the contrary, it’s the militia that used them,” he added, referring to the Rapid Support Forces.¶ Last week, the United States determined that the Rapid Support Forces had committed genocide in the war and imposed sanctions on its leader, Lt. Gen. Mohamed Hamdan, for his role in atrocities against his own people. The United States also sanctioned seven companies based in the United Arab Emirates that traded in weapons or gold for the R.S.F.¶ Sudan’s military has been accused of using chemical weapons before. In 2016, Amnesty International said it had credible evidence of at least 30 likely attacks that killed and maimed hundreds of people, including children, in the western Darfur region. The organization published photos of children covered in lesions and blisters, some vomiting blood or unable to breathe.¶ As the United States debated punitive measures against General al-Burhan last week, the Sudanese authorities announced that they would maintain a major aid corridor through neighboring Chad, a move American officials saw as an effort to avoid the sanctions.¶ But the evidence of chemical weapons was **too compelling to ignore,** several U.S. officials said.¶ The United States detected numerous chemical weapons tests by Sudanese forces this year, as well as two instances in the past four months in which the weapons were used against R.S.F. troops, two of the officials said.¶ The United States also obtained intelligence that chemical weapons could soon be used in Bahri, in northern Khartoum, where fierce battles have raged in recent months as the two sides compete for control of the capital.¶ Chlorine was first weaponized during World War I, and its use in combat is **prohibited by international law**. In the mid-2000s, insurgents in Iraq weaponized chlorine in attacks on U.S. troops. It has also been used in improvised bombs by ISIS fighters and by the Assad regime in Syria.

**Accountability**

**We are in an era of constant military intervention that continuously fails.**

**Kavanagh ’23** [Jennifer; Senior Fellow @ the Carnegie Endowment for International Peace; March 30; Foreign Affairs; “Why Force Fails,” https://www.foreignaffairs.com/united-states/us-military-why-force-fails] tristan

**American soldiers have been deployed** abroad almost **continuously since the end of World War II**. The best-known foreign interventions—**in Vietnam, Afghanistan, and Iraq**—were **large, long, and costly**. But **there have been dozens of** other such deployments, many smaller or shorter, for purposes ranging from deterrence to training. Taken as a whole, **these operations have had a** decidedly **mixed record**. Some, such as Operation Desert Storm in 1991, which swept the Iraqi dictator Saddam Hussein’s forces out of Kuwait, largely succeeded. But **others**—such as those **in Somalia, Haiti, Afghanistan, Iraq, Libya, and elsewhere**—**were disappointments** or **outright failures. It is these unsuccessful post–Cold War interventions that have engendered serious doubts among policymakers** and the public **about the role of force in U.S. foreign policy.¶** Even so, **U.S. decision-making** still **has a strong bias in favor of military intervention**. When crises emerge, **the pressure for a U.S. military response is often immediate**, **on the grounds that it is better to try to control the situation than to do nothing**. But **in many cases, the United States could likely have achieved its goals without intervening militarily.** To explore how often U.S. military interventions have advanced U.S. objectives, **we built a database of conflicts and crises that involved U.S. interests** between 1946 and 2018. Conflict cases were drawn from the Uppsala Conflict Data Project and crisis cases came from the International Crisis Behavior data set. To identify cases involving U.S. interests, we looked for conflicts and crises that posed a direct threat to the U.S. homeland or to a U.S. treaty ally, occurred in a region of high strategic importance for the United States, or involved a large-scale humanitarian crisis. We then identified those conflicts and crises that prompted the deployment of U.S. military forces. To be counted as an intervention, the U.S. forces had to meet certain thresholds (at least 100 personnel for a full year, or a larger presence for a shorter time in the case of ground interventions). For each conflict or crisis, we also collected information on several outcome measures including conflict or crisis duration, intensity, changes in economic development and democratic institutions in the country affected by the conflict or crisis. **Of the 222 conflicts and crises from 1946 to 2018** that involved U.S. interests, **the U**nited **S**tates **chose to intervene on 50 occasions** and not to intervene on 172.¶ Our findings flip the conventional wisdom on its head: irrespective of whether the United States intervened, the outcomes were largely the same. Across each of the dimensions we considered, **there was no statistically significant difference between the cases that prompted an intervention and those that did not.** In other words, **the evidence that** U.S. **military interventions are consistently achieving their goals is sparse**. But this does not mean that all interventions fail. A closer look suggests that there is a subset of operations that is more likely to advance U.S. interests and achieve U.S. objectives: those that had clear, achievable goals and were informed by accurate assessments of local conditions.¶ **Washington** desperately **needs to rethink its relationship to military force**. Above all, **it needs to stop regarding military adventures as the go-to solution for all** potential **threats**. At the same time, however, it cannot view every potential intervention as an inevitable disaster that will divert resources from domestic priorities. **The real danger is not military interventions** per se **but large ones with expansive objectives that are out of touch with the reality on the ground. Those are the ones that gamble with U.S. blood and treasure.**¶ **WHY FORCE FAILS¶** Clearly, some military interventions do advance U.S. interests. Our research shows that small, short interventions with narrow objectives that are well suited to military force can succeed. In the 1980s, for example, U.S. planes and aircraft carriers thwarted Libyan attempts to control the Gulf of Sidra. And in 1998, American cruise missiles struck targets in Afghanistan and Sudan in retaliation for al Qaeda’s bombing of the U.S. embassies in Kenya and Tanzania.¶ But **when used in the wrong circumstances, interventions can fail disastrously**. Large ones are particularly risky. Although massive applications of force can sometimes be the only way to achieve high-stakes U.S. objectives—as in World War II and the Korean War—they are nonetheless a big bet. If not done carefully, **large interventions can turn into resource-consuming failures**, **saddled with expansive political goals that cannot be accomplished by military force alone.¶ The U.S. military is poorly equipped to handle political tasks.** **Military force** **can bring down a dictatorship, but it cannot establish an effective and democratic replacement**. **Nor can it stabilize long-running civil wars or** overcome age-old **ethnic divides**. **U.S. military interventions that have sought to accomplish such goals—in Vietnam, Somalia, Afghanistan, and Iraq—have failed**. Even the tasks that military forces are well suited for—raising a partner army, for example—can fail when the scope of the task is too large or when the mission does not receive enough support. For evidence of that, look no further than the collapse of local security forces in Afghanistan following the withdrawal of U.S. forces in 2021.¶ Before World War II, the United States intervened primarily to conquer other lands or defend its own.¶ Although there is strong evidence that setting such expansive goals often leads to failure, our analysis shows that **the decision to use military intervention to accomplish broad objectives has become increasingly common since World War II.** Before the war, the United States intervened primarily to conquer other lands or defend its own. But after, when the Cold War began, American ambitions grew. **Washington now sought to enhance regional security, oppose communism, rebuild countries, and promote global norms.** After the Cold War, counterterrorism was added to the list of goals, and although the United States did not intervene more frequently, its aims steadily became more wide-ranging. Not surprisingly, heightened ambitions lowered the success rate of American interventions, and **despite having the most powerful military on the planet, the United States often met with failure.** Since the early 1990s, then, **the share of interventions that failed to achieve their objectives has risen steadily**. Our analysis suggests that before 1945, the United States achieved about 80 percent of its intervention objectives. During the Cold War, however, it achieved its objectives only about 60 percent of the time, and in the post–Cold War period, **the rate of success** has fallen to just **under 50 percent**.¶ Critics might argue that our study has a selection problem, if the crises and conflicts in which the United States intervened were also the ones that were most likely to fail no matter what. But there is little evidence to support that objection. **Dozens of case studies suggest that there is no relationship between the difficulty of the underlying circumstances and the likelihood of intervention**: there are plenty of hard cases in which the United States intervened and plenty of easy cases in which it chose not to. But **as constraints on U.S. military power faded** during and after the Cold War, **the United States did adopt more and more expansive goals for the interventions it chose to pursue and was consequently less and less able to achieve these goals by relying solely on military force.**¶ WASHINGTON’S RECORD OF FAILURE¶ Why have so many American interventions gone awry? One of the key findings of our research concerns when a **military intervention** is likeliest to succeed: when it **decisively shifts the local balance of power in favor of the United States and its allies.** This means that some of the most important determinants of success are the military strength of U.S. proxies and adversaries, the level of popular support for U.S. aims, and the degree to which third parties can interfere. Yet **Washington tends to consider** these **factors too late** (or even not at all), **and** it **is prone to rely on inaccurate or insufficient information** when it does.¶ **The U**nited **S**tates **has a** particularly **dismal track record when it comes to** correctly **assessing others’ military power.** During the Vietnam War, **U.S. policymakers** vastly **underestimated the effectiveness of the Viet Cong** and, therefore, **misjudged the odds of success**. The United States has often made a similar mistake when evaluating its partners. In Vietnam, Washington was too optimistic about the capabilities and self-sufficiency of its South Vietnamese partner, the Army of the Republic of Vietnam. In 1979, the United States overestimated the ability of its longtime ally in Iran, the shah, Mohammad Reza Pahlavi, to quell domestic unrest and was surprised by his rapid fall from power. More recently, **Washington had too much confidence in the skill and commitment of the security forces it had built in Afghanistan**, which collapsed quickly in the face of the Taliban’s advances.¶ **The cost of these errors is high**. **Overestimating** a partner’s capabilities **or underestimating an adversary’s strengths can lead policymakers to start risky or costly interventions that they would have avoided with better information.** Such misjudgments can also lead them to justify prolonging interventions that have no plausible route to success. Indeed, a lack of local support has been the undoing of many a U.S. military intervention. When the United States intervened in Haiti in 1994, U.S. policymakers mistakenly equated Haitians’ support for removing the military junta with enthusiasm for a U.S.-backed democratic government. Likewise, in Iraq after 2003, the Pentagon’s rosy assessments of the public’s enthusiasm for political transformation meant that U.S. forces were unprepared for the insurgency that followed.¶ **U.S. policymakers have also often been surprised by the power of third parties to act as spoilers.** Foreign militias, neighboring states, and other rivals have repeatedly ruined the United States’ best-laid plans. In 1950, U.S. policymakers failed to predict Chinese intervention in the Korean War. They would repeat the mistake in Iraq after the 2003 invasion, when they were surprised by the swift ascendance of Iranian militias. In both cases, the involvement of the third party should have been foreseeable, and Washington’s failure to take it into account was costly.¶ THE POWER OF THE POSSIBLE¶ **There will always be situations in which military intervention is the best** or only **option** for the United States. But **policymakers must** also **recognize** that in many cases, **the best response** to a crisis or potential threat **is to take no military action at all and rely instead on diplomacy or sanctions**—**or simply learn to live with an elevated threat.¶ The United States should never deploy its military** **without first asking whether doing so can** rapidly and sufficiently shift the local balance of power to enable U.S. forces or partners to **achieve** their **goals**. **If the answer is no or maybe, then policymakers should favor nonmilitary alternatives**. Policymakers should apply especially stringent scrutiny to proposals that involve large interventions. And they should be cautious of setting expansive objectives. Often, such goals conflate objectives that would be nice to have with those that are essential. After the invasion of Afghanistan in 2001, for example, the narrowly defined counterterrorism mission became intertwined with a broad, nation-building project, thus transforming an aspiration into a national security priority, even though no truly vital U.S. interests were at stake. Rather than increasing an intervention’s size or duration to take on more ambitious goals, **policymakers should** instead **focus on** those **goals that are achievable**.¶ Policymakers must have accurate information on local conditions to evaluate the chances of a proposed intervention’s success. To ensure that policymakers get the information they need, the intelligence services should elevate and weight more heavily the voices of diverse local experts—including those with the stature and inclination to provide candid information that Washington might not welcome—in their briefings and analyses. Such figures can provide more accurate indications of the potential risks that local political attitudes and dynamics could present to U.S. military interventions. These experts should also work with the intelligence and defense leadership in Washington to identify third parties who have the capabilities, interests, and intention to interfere with intervention plans, as well as the conditions that might prompt such interference. If China were to invade Taiwan, for example, North Korea or Russia might become involved. The challenge will be understanding how and when each might intervene. Taking seriously other political leaders’ redlines will be an essential part of the planning for any U.S. military intervention.¶ Future U.S. military interventions are likely, but costly failures need not be.¶ Finally, policymakers need more detailed and timely information to assess the military power of the United States’ adversaries and partners, which the intelligence services have often struggled to provide. In advance of the 2022 Russian invasion of Ukraine, for example, the U.S. government overestimated Russian military strength and underestimated Ukrainian capabilities. As a result, policymakers expected—and even started planning for—a swift Russian victory. Developing a more reliable understanding of the military capabilities of other adversaries and partners must become a top priority for the intelligence community. Analysts need to do more than count tanks, ships, and aircraft; they also need to take into account more sophisticated assessments of the social, economic, and industrial foundations of a country’s military power, the political and strategic culture of that power, and its commitment to fighting.¶ **Future U.S. military interventions are likely, but costly failures need not be. A more effective policy requires Washington to rethink its view of military intervention: it is not a hammer for all nails but a specialized tool best used sparingly and carefully.**

**The ICC would restrain US adventurism.**

**Kuo ‘24** [Felisha Kuo, Bruin Political Review, UCLA, May 10, 2024, “Analyzing the United States in International Law: A Case for U.S. Membership in the International Court of Justice (ICJ) and International Criminal Court (ICC)” https://bruinpoliticalreview.org/articles?post-slug=analyzing-the-united-states-in-international-law-a-case-for-u-s-membership-in-the-international-court-of-justice-icj-and-international-criminal-court-icc-] squasha

In December 2023, the International Criminal Court (ICC) issued arrest warrants for Putin’s commanders, but the chances for the extradition of the Russian nationals are slim–the Kremlin’s spokesperson Dmitry Peskov says that they would not recognize the warrants as Russia is not a signatory to the Rome Statute.

With the Russian invasion of Ukraine and the Israel-Palestine conflict, international law struggles to find legal avenues to hold individuals in power accountable because the ICC has no jurisdiction over non-member states.  The United States, the self-proclaimed champion of human rights and leader of the democratic world, is no exception.

Created by the Rome Statute in 2002, the ICC is the first treaty-based court that serves to try four specific crimes: genocide, crime against humanity, war crimes, and the crime of aggression. Unlike past tribunals, the ICC has the power to initiate an investigation without the referral of a State under certain circumstances, which makes it more independent from states. Under the Rome Statute, the United Nations Security Council (UNSC) has the power to pause ICC investigations for up to a year. The United States, equipped with veto power as one of the five permanent members of the United Nations Security Council, has the ability to undermine international law. With its veto power, the United States can vote against the ICC from proceeding with a case, which it has done many times.

The United States, despite being heavily involved in the drafting of the Rome Statute, is not a treaty member and thus has been able to evade legal accountability. The question of whether the United States should join the ICC arises as it seeks to hold Russia accountable for its violations of international law.

Despite being the global superpower with the ability to evade international law, the United States still has stakes to consider when it comes to its image and soft power. Unlike hard power, which illustrates military might and economic wealth, American soft power is its ability in diplomacy to appeal to other states, such as through cultural influences or the attractiveness of American democratic values. Part of what influences the level of soft power is the public image of the State. However, the United States is losing grip on its influence on the global platform. Immediately after World War II, the United States was able to easily push forth its agenda, convincing its allies to support its policies by appealing to them with a vision of democracy and human rights without the use of military force or economic coercion. This is not the case today and the United States should be concerned with the soft war it is losing as its image plummets on the international stage [1].

Historically, the United States has a record of signing treaties and promptly withdrawing or refusing to ratify UN Security Council treaties regarding human rights. Its track record is ***more than*** ***horrific*** when it comes to human rights violations. For example, the United States lost its seat in the UN Human Rights Council in 2002 after the Bush Administration insisted on constructing a nuclear missile defense system– a flagrant violation of the 1972 Anti-Ballistic Missile Treaty. A few years later,  the U.S. alone abstained from voting in a 2009 UNSC resolution calling for a ceasefire in the war in Gaza. This trend of violating international law and unilateralism ***continues today*** as the U.S. repeatedly vetoes the UNSC resolutions calling for a humanitarian ceasefire in Gaza. Egypt’s foreign affairs minister warns that the U.S. “is losing a tremendous amount of credibility in the Arab world” as it continues to support Israel militarily [2].

In the international arena, these actions translate to the United States abandoning multilateralism and international law. But even in the glaring hypocrisy of its actions, the past and present United States administrations have been reluctant to join or support the ICC. When first established, the Clinton administration, fearing that the ICC’s jurisdiction would infringe on the U.S.’ sovereignty over its military personnel and citizens, considered the statute incompatible with the U.S. Constitution, further citing an unchecked power and politicization. U.S. hostility towards the ICC grew during the Bush administration. In the same year the ICC started its operations, President Bush signed the so-called “Hague Invasion Act,” which “authorizes the President to use all means necessary to bring about the release of covered U.S. persons and allied persons held captive by… the Court” [3]. The law then takes additional steps to ensure that its troops get immunity from prosecution, threatening the withdrawal of military assistance from countries ratifying the ICC treaty [4]. This obstructs the ICC from prosecuting any United States citizen, rendering international law inapplicable to Americans.

In addition to the hostility towards ICC investigations concerning the United States, Congress has attempted to obstruct ICC investigations in its allies, such as in 2021 when Secretary of State Antony Blinken stated the United States “firmly opposes and is deeply disappointed” by the decision to open an investigation into the Palestine situation [5].

To regain its soft power, the United States should ratify the Rome Statute. The United States could regain its legitimacy as a legal actor in international law among global actors, and increasing legitimacy is an investment in soft power. Furthermore, by signing the Rome Statute, the United States can help reshape the ICC’s legal infrastructure in the direction of the United States’ interests and address its current critiques of the Court. As the Court’s efficacy depends heavily on the amount of financial and legal resources its member states are willing to contribute, the United States could gain opportunities to explore changes to the Court’s structure.

The ICC operates under the principle of complementarity, giving the state of which the accused is a national priority jurisdiction [6]. It is only when states do not have the infrastructure or the willingness to investigate amid blatant human rights violations the ICC can instigate an investigation. Considering the United States’ well-established military court system, an ICC investigation on U.S. nationals is highly unlikely. Joining the ICC, then, will encourage senior U.S. officials to make more careful choices when it comes to decisions that involve military force. With 750 military bases across eighty different countries, the United States’ large military presence must be accompanied by thorough decision-making as any use of military force could further escalate ongoing conflicts.

Reflecting on the history of American military adventurism, whether in Vietnam, Iraq, or Afghanistan, most are wars of choice. Given that the choice rests on high-level officials and military personnel, considering the legal liability encourages careful consideration of the human and financial costs of war. It will also encourage better attempts at trialing and self-enforcing military guidelines when it comes to war crimes.

Take the Iraq War in 2003, where a U.S.-led coalition overthrew the Saddam Hussein government, justifying the intervention by citing evidence for weapons of mass destruction. Seven years and more than $3 trillion U.S. dollars later, the defeat of the Iraqi army signaled the end of the war [7]. However, the U.S.’ supposed evidence of weapons of mass destruction and biological weapons were unfounded. “The Americans lost a lot of credibility from this war,” says Dr. Karin von Hippel, the director-general of the Royal United Services Institute think tank in an interview with BBC.

The Americans did not just lose credibility in terms of intelligence. Allegations of gross human rights violations in secret detention centers and the indiscriminate cluster bombings against the U.S. followed. Legal experts of international law concluded that the attacks were disproportionate and indiscriminate, violating international humanitarian law which prohibits “attacks which employ a method or means of combat which cannot be directed at a specific military objective,” [8].

Now, 13 years after the end of the war, the United States has shielded its military officers from international law by staunchly opposing investigation attempts by the ICC. Even in domestic courts, the U.S. has failed to instigate an investigation of high-ranking U.S. officials, and **no senior U.S. officials have been trialed or brought to justice.** **Had the United States considered international legal repercussions under pressure from the ICC before deciding to invade Iraq, the outcome could have involved fewer civilian deaths.** ICC membership will also pressure the United States to conduct a more thorough trial of its military officials and learn to avoid fighting another unnecessary war.

Contrary to these claims, Congress continues to criticize ICC’s legal infrastructure, claiming its unchecked judicial powers infringe upon U.S. sovereignty, making it incompatible with the U.S. Constitution. Some U.S. officials further argue that the ICC is corrupted by increasing politicization against American interests.

U.S. membership indeed invites the ICC to second guess the judicial and sovereign decisions made domestically in the United States, even under the principle of complementarity. Under the Rome Statute, the ICC has the ability to investigate and prosecute nationals of member states if they deem the initial investigation by the state “non-genuine.” Therefore, it is understandable why current and future administrations refuse membership because part of U.S. national sovereignty is divested to ICC jurisdiction if the U.S. ratifies the Rome Statute.

Joining the Court then becomes a question of balancing U.S. national sovereignty against respect for international law. If the United States remains adamant about not playing the legal way, then why should other states? U.S. impunity undermines the legitimacy of international courts, and in doing so, degrades world order. By not signing the Rome Statute, the United States demonstrates that impunity is acceptable for a state with military might, and as John Messing writes, “the unjustifiable uses of force hinder the establishment of a legal order to control international violence and coercion” [9]. Ultimately, the United States must decide if it is willing to give up part of its national sovereignty and military adventurism for the sake of improving world peace and justice.

**Otherwise,**

**Lucas ’15** [James; Writer @ Global Research; January 14; Global Research; “The U.S. Has Killed More Than 20 Million People in 37 "Victim Nations" Since World War II,” https://www.globalresearch.ca/us-has-killed-more-than-20-million-people-in-37-victim-nations-since-world-war-ii/5492051] tristan

**The American public** probably **is not aware of these numbers and knows** even **less about the proxy wars for which the United States is also responsible**. In the latter wars **there were between nine and 14 million deaths in Afghanistan, Angola, Democratic Republic of the Congo, East Timor, Guatemala, Indonesia, Pakistan and Sudan.**

But the victims are not just from big nations or one part of the world. The **remaining deaths were in smaller ones which constitute** over **half the total number of nations**. **Virtually all parts of the world have been the target of U.S. intervention.**

**The overall conclusion** reached **is that the U**nited **S**tates most likely **has been responsible since WWII for the deaths of** **between 20 and 30 million people** in wars and conflicts scattered **over the world.**

## 2AC

**A2: Hybrid Tribunals**

**0. ICC can fill into places that don’t have tribunals.**

**1.Hybrid courts are reliant on donor funding, have unqualified and absentee judges, and cause brain drain in domestic judiciaries.**

**Naughton 18** [Elena Naughton, J.D. and an LL.M. from New York University School of Law, “Committing to Justice for Serious Human Rights Violations”, International Center for Transitional Justice, <https://www.ictj.org/sites/default/files/ICTJ_Report_Hybrid_Tribunals.pdf> //akang]

Because of the special expertise required of judges, it can be particularly difficult to recruit competent judges in sufficient numbers to handle the number of cases needed to be heard. For instance, in Timor Leste, there was an insufficient number of judges to form the panels for long intervals of time; as a result, trials were delayed on a number of occasions.106 Furthermore, none of the Timorese appointees had “any previous judicial experience or training.”107 When Deputy General Prosecutor for Serious Crimes Siri Frigaard, for instance, arrived in Dili in 2002, “There were no professional staff members from Timor-Leste in the SCU apart from one prosecutor who left for Portugal for studies a few months later. Most of the locally-recruited staff members were working in the Ordinary Crimes Unit.” Only after she managed to “obtain donor funding through the Government of Norway” was she able to train the national prosecutors and support staff

Judicial Absences and the Rotation of Judges

Hybrid tribunals have suffered hardships as a result of judicial absences. In the BiH War Crimes Chamber, international judges “resided elsewhere and flew into Bosnia once a month for a week-long session.”109 The use of part-time or ad hoc judges can lead to delays in court proceedings and increase the likelihood of conflicts with a judge’s other professional responsibilities.

Need for Training

Issues of competence have arisen in connection with both national and international personnel. International staff often require training on the particulars of the country context and national law, whereas nationals often need training in international legal principles and standards.110 However, in both Cambodia and BiH, for instance, participants and observers at the courts also complained about the international judges’ lack of experience in mass crimes trials.111

Adequate Remuneration of Staff

At times, challenges recruiting the best international personnel stemmed from a lack of funding and, consequently, the inability to adequately remunerate international staff (according to international standards). In other cases, discrepancies in earnings between national and international staff created challenges. In Timor-Leste, differences in salaries were a major source of tension between national and international staff, and for good reason; in April 2001, national staff were paid $240 per month, whereas international staff earned $7,800 per month; civilian police, $3,000; and UN volunteers, $2,250.112 In Sierra Leone, living allowances for Sierra Leonean judges were lower than that of international judges. And initially in Cambodia, national staff were expected to receive half of what international staff earned.113 These disparities in remuneration sometimes extended to fringe benefits, such as pensions and special allowances for covering school fees, health insurance, and vehicle expenses. Whether in base salary or fringe benefits, such disparities have been linked to a drop-off in motivation among those staff members receiving markedly less for comparable labor and have been connected to a “local brain drain,” whereby qualified potential national staff leave the country for higher-paying positions—a phenomenon with adverse ramifications not only for ongoing court operations but for **building long-term capacity.**

**2. Name me three examples, they should be thriving --- every Hybrid Court has Failed—Two Examples:**

**A. Sierra Leone --- lack of funding, disagreements on whose responsible, and narrow jurisdictions narrow.**

**MAJOR DALE MCFEATTERS**, 20**19**, "THE SPECIAL COURT FOR SIERRA LEONE: A POTENTIAL MODEL FOR ESTABLISHING THE RULE OF LAW AFTER LARGE SCALE COMBAT OPERATIONS," MILITARY LAW REVIEW, https://tjaglcs.army.mil/Portals/0/Publications/Military%20Law%20Review/2019%20(Vol%20227)/Issue%202/2019-Issue-2-The%20Special%20Court%20for%20Sierra%20Leone.pdf?ver=1GF-4CNjddOWrU1AS0CGLw%3D%3D, Mehran

Many of the SCSL’s problems revolved around funding. The UNSC established the SCSL to be funded with voluntary contributions from U.N. member states. 114 This meant that those most interested in the SCSL’s success, the U.N. and the people of Sierra Leone, were now entirely dependent on donations.115 At one point, the Court became so cash-strapped that it needed a bailout from the U.N. just to meet its mandate.116 The SCSL’s limited budget significantly restricted its capabilities 109 and forced the court’s chief prosecutor to limit the number of indictments and prosecutions.117 b. Support to the Defense Office The Court’s shoestring budget also limited the resources that could be provided to the defense attorneys. Though Taylor sat atop a vast and lucrative criminal enterprise, investigators were never able to track down the millions of dollars he allegedly sent offshore. 118 As a result of Taylor’s penury, the SCSL funded Taylor’s defense, which cost $100,000 a month.119 Even so, Taylor’s defense attorneys complained that they were significantly underfunded and that the Registrar often asked the Defense Office to make decisions that undermined the representation of its clients.120 2. Narrow Interpretation The SCSL’s mandate was to “prosecute persons who bear the greatest responsibility” for the conflict’s violence.121 Obviously, there were differing opinions on whom and how many were most responsible for the atrocities in Sierra Leone. This was, after all, a decade long conflict waged primarily against a civilian population. Concerned that the phrasing of the mandate would overly restrict the number of prosecutions, the U.N. Secretary General urged the Security Council to widen the personal jurisdiction of the Court’s mandate.122 His proposal was rejected.123 The limited funding available and the SCSL’s narrow jurisdiction lead the Prosecutor to charge only a tiny fraction of the conflict’s worst perpetrators, allowing some of the most notorious to escape justice.124 117 Selective Prosecutions At the SCSL’s formation, juveniles and peacekeepers were specifically excluded from prosecution. 125 These exclusions were controversial in Sierra Leone. Though there was a segment of the population that wanted to see juveniles prosecuted,126 the United Nations Children’s Fund and other human rights organizations were adamantly against it. 127 In contrast, the failure to hold peacekeepers accountable, especially those assigned to the Economic Community of West African States Monitoring Group (ECOMOG), caused outrage and instantly damaged the SCSL’s credibility.128 The ECOMOG was responsible for crimes against Sierra Leone’s population, including summary executions, rape, and looting.129 Finally, Sierra Leone’s civil war began, almost inevitably, because of terrible governance, rampant corruption, and regional instability.130 Yet the conflict was fueled and perpetuated by the factions’ exploitation of the country’s diamond mines, both for greed and revenue. 131 These “conflict diamonds” were sold on the international market with the complicity of the diamond industry. 132 The SCSL’s failure to hold foreign businesses accountable for knowingly profiting from conflict diamonds diminished the court’s legitimacy.133

**B. Cambodia, because hybrid courts are half established by the government itself,**

Heather **Ryan**, 02-04-**2022**, "And then, finally, a judge wrote the shameful end of the Khmer Rouge Tribunal," JusticeInfo.net, https://www.justiceinfo.net/en/87248-finally-judge-wrote-shameful-end-khmer-rouge-tribunal.html, Mehran

The lockstep dance of Cambodian judges and prosecutors As evidence that the cases were doomed to fail from the beginning, Judge Clark references various positions of the national prosecutor, national investigating judges and national Pre-Trial Chamber Judges attempting to eliminate the 003/004 cases on inconsistent rationales. She points to the failure of the national prosecutor and national investigating judge to participate inthe prosecutions or investigations even after the court rules mandated that the cases proceed. She notes the statement of the national judges of the Trial Chamber indicating that they would not cooperate with a trial of the cases. What she does not mention, presumably because it arises generally outside of the case files, are the numerous statements of Cambodian Government officials, including Prime Minister Hun Sen, that they would not allow the cases to be tried. The national officials of the court took the lockstep stance that no more that the five original suspects in cases 001 and 002 should be brought before the ECCC. As Judge Clark demonstrates (consistent with the opinions of many others who have evaluated the facts), this position is not supported by the court’s foundational documents or negotiating history. Nonetheless, given the early and unbending commitment by Cambodian officials to this position, Judge Clark asks the obvious questions about why the cases were allowed to proceed for thirteen years: Why was it necessary to maintain a large staff of investigators, prosecutors, and Pre-Trial Chamber judges beyond the needs of Case 001 and 002? Why were so many victims and civil parties led to expect their day in court when there was no possibility of further trials? Why was so much money spent? She concludes by asking whether the last 13 years were merely an exercise in optics. We must blame internationals too That it took 13 years and a new judge writing a lone dissent in the Supreme Court Chamber to finally put such questions does not credit the court. Judge Clark suggests that the national prosecutor and others could have prevented this debacle by using available procedures in the early days of the cases to test the validity of the national position that they should be dismissed. I would go further than Judge Clark and suggest the United Nations, the international officials, and the donors of the court are equally to blame for failing to acknowledge honestly and publicly the political obstacle to independent judicial consideration of these cases. Until Judge Clark’s tempered recognition of the political nature of the national judges’ decision making, the UN and international judicial officials, with minor exceptions that include the resignation statements of two international co-investigating judges, refused to publicly acknowledge that the cases were not being conducted in accordance with international standards for judicial independence. Had such acknowledgment happened in 2009 one of two things might have happened. First, the Cambodian Government and officials might have recognized that the credibility of the ECCC was at stake and that it was necessary to change course and support independent evaluation of the cases. Second, the Cambodian Government and the national court officials might have dug their heels in, in which case the ECCC could have taken steps to terminate the cases before many millions of additional dollars were spent and the legitimacy of the ECCC was further damaged by the pretense that the cases were not doomed by the political position of the Cambodian Government and the adherence to that position by the national officials of the court. For the triumph of evil, good men should do nothing A myriad of excuses is put forth for why no international official was willing to speak. These include: “If we raise the problems with Cases 003 and 004, we will undermine the good work in the more important 001 and 002 Cases.” “We are in Cambodia and it its impolite to criticize our Cambodian colleagues.” “If we go forward with the international side of the court investigating Cases 003 and 004 alone, then at least we will have a proposed indictment as a record of what happened.” (When and if the archives of the ECCC are finally secured, organized, and made publicly accessible we will see if the case 003 and 004 investigation material is released and whether this assurance is made real.) Each of these rationalizations lack courage and undermine the integrity that is essential if the cause of international criminal justice is to have credibility with the victims it serves or the international community more generally. The reason for substantial international involvement in the ECCC was to address the overwhelming evidence that the Cambodia Government controls the national judicial system whenever it serves its purposes to do so. Such a system does not meet international standards for fair trials and should not be supported by the United Nations. The convoluted procedures, including the presences of co-prosecutors, co-investigating judges and international judges sitting along-side national judges on each chamber of the court, and, critically, a complicated system for “supermajority” votingwere all deemed necessary to prevent politically based decisions or interference about who would be prosecuted by the court. Despite all the cumbersome protections it is evident, as Judge Clark describes in her dissents, that cases 003 and 004 were being undermined from the beginning and would never go to trial because of political considerations. This is intolerable in a court that claims to comply with international standards for judicial independence. The failure of the court officials, the UN, and the donors to honestly speak up and address such a fundamental problem is perhaps reason that Judge Clark quoted in her dissent the observation attributed to John Stuart Mill and Edmund Burke that the only thing necessary for the triumph of evil is that good men should do nothing.

**In fact, it killed the legitimacy of domestic courts.**

**Ortega 10** [Olga Martin Ortega, May 2010, Hybrid Tribunals & the Rule of Law, Jad-Pbp Working Paper Series, <https://ciaotest.cc.columbia.edu/wps/chrc%20/0019630/f_0019630_16753.pdf>, Willie T.]

It should not be assumed that the courts will only have a positive impact in terms of educating the public about the rule of law. The experience of both countries demonstrates that there can be possible negative effects and the courts should work to prevempt these problems before they begin to undermine their work. In Cambodia, there have been a number of problems with the ECCC which may actually have a negative impact on the public perception of rule of law. There has been a widely A publicised controversy regarding alleged kickbacks.  Cambodian staff reported that they had to give a percentage of their salary to their superiors.173 This was reported widely in the international press following the Open Society Justice Initiative (OSJI) work on the subject. An audit commissioned by UNDP found several problems inhuman resources management, with salary inflation and unnecessary creation of posts (although it did not investigate the kickbacks claim).174 Despite the UN and the RGC working on an agreementinordertotackletheseproblems,thenegotiationsstalledandallegationsof corruptioncontinuedtogatherpressinterest.175Furthermore,donorswithheldfunding from the ECCC until the issue was resolved. Finally, in August 2009 a range of anticorruption measures were agreed upon, including the establishment of an Independent Counsellor who will be available to hear all complaints of corruption.176 Nevertheless, the OSJI still argued that better protection was needed for staff.177With these problems, it is unclear whether the ECCC is providing the expected demonstration effect that public institutions should be transparent. If a UN backed internationalized court is unable to overcome corruption, then this could possibly undermine public perception of institutions and raise scepticism that things will never change. However, it could also be the case that the ECCC has a positive impact through demonstrating that problems existed but were dealt with properly. A 2008 audit found that most of the problems in the 2007 audit had been dealt with. This may show that these sorts of corruptionproblemscanbeovercome,solutionsarepossibleandtheyshouldtherefore notjustbeacceptedasfactsoflife.Asmentionedabove,thesurveybytheHumanRights Center at the University of California, Berkeley shows that the majority of those who know about the ECCC believe in its potential to provide a response to the crimes committed and two thirds believed that the judges would be fair or the ECCC would be neutral.178 The question of how the court is perceived requires further investigation as the ECCC continues its work incase 002 and a follow A up survey is currently planned. Further to these claims and criticisms, the controversy over additional prosecutions also has the potential to limit the impact of the work of the court. In December2008, theCambodian CoA Prosecutor Chea Leang opposed the submission of an additional 6 suspects for prosecution by the former International CoA Prosecutor RobertPetit.Leangstatedthatfurtherinvestigationsshouldnotproceedbecauseofthe past instabilityofthecountry,thespiritoftheagreementbetweentheRGCandtheUN and the limited duration and budget of the court.179 Petit filed a Statement of DisagreementinorderforthePreATrialChambertodecideonthismatter,theprocedure for resolving such disputes. In September 2009 it was announced that the preAtrial judges had failed to reach a supermajority and therefore to reach a decision on the matter.180 In such a case, the Internal Rules provide that the submission proposed by the CoA Prosecutor automatically moves to the next stage, which is that the CoA Investigating judges open judicial investigations. The considerations of the preAtrial chamber show that the three Cambodian judges agree with Leang while the two international judges found that Leang’s reasoning was not sufficient to block the submissions.181 It remains to be seen whether the Cambodian half of the tribunal cooperates if the additional prosecutions go ahead. Prime Minister Hun Sen has stated that these additional prosecutions would lead to a civil war with hundreds of thousands of deaths. 182 The reputation of the Court rests on whether the prosecutions are able to go forward or if it is perceived that the Cambodian side is making decisions based on political interference. One of the risks of trials that could result in a counterproductive effect is if they are perceived as biased.18 3Courts can be vulnerable to political attacks and accusations that can undermine both their prosecutorial activity and the wider impact in the rebuilding of the rule of law in the country. In BiH, politicians’ attempts at using the work of the Court to further their own agendas puts the State Court at risk of being **perceived as partial**. Serbian political leaders have been very vocal in their rejection of the Court arguing that it has focused more strongly on the prosecution of Serbs. The fact that the State Court is located in a former detention facility for Serbs during the war has not helped to refute their arguments that “it is a Court to condemn Serbs”.184 In line with the discourse of Serb political leaders, Serb victim associations have led protests against the Court and several demonstrations have taken place in front of the building. Their attacks also undermine public opinion towards judges and prosecutors at the state level, as the accusations of lack of integrity and professionalism have an important impact on people’s perception of their work and of the very constitutionality of the existence of the

**Their Duursma evidence is terrible:**

**1. Our Hortnagl evidence is far larger in scope-- they examine 3 countries while we look at 6 and finds the opposite so prefer it**

**2. We are fundamentally discussing two different issues --- arrest warrants and investigations. Investigations are effective and if they sufficiently deter, the arrest warrant doesn’t cause mass violence.**

**A2: Constitutional Convention**

**1. Their evidence concedes that concerns are overblown Knight says “It is not clear how seriously Republicans would pursue a convention.”**

**2. NL - Other treaties provide precedent AND armed forces don’t enjoy protections anyways.**

**Harris 2k** [Teresa Young Reeves, J.D. Candidate @ the Washington College of Law, 2000, A Global Court? U.S. Objections to the International Criminal Court and Obstacles to Ratification, Human Rights Brief, https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1472&context=hrbrief, Willie T.] \*\*ellipses in original\*\*

**Constitutionality of the Rome Statute ¶ The Rome Statute does not deny U.S. citizens their rights** under the U.S. Constitution. According to Yale Law School Professor Ruth Wedgwood’s extensive study, **there “is no forbidding constitutional obstacle to U.S. participation in the treaty**.” Wedgwood cites five reasons for this conclusion, three of which will be addressed here. **First, historically the U**nited **S**tates **has signed treaties allowing U.S. participation in international tribunals that could affect the lives and property of U.S. citizens**. For example, the **N**orth **A**merican **F**ree **T**rade **A**greement **and the W**orld **T**rade **O**rganization **subject U.S. businesses to judicial processes that do not mirror those** found **in an American courtroom**, i.e., fact-finding by a panel of judges rather than by a jury. ¶ Second, **the ICC does not offend U.S. constitutional notions of due process because the Rome Statute**, as **carefully negotiated by Scheffer** and his team at the Rome Conference, **comports with the procedural protections and safeguards provided to U.S. citizens under the U.S. Constitution**. Wedgwood and Monroe Leigh, a member of the American Bar Association, have compiled lists citing articles of the Rome Statute that both address and guarantee due process rights. Their **lists include**, inter alia, **the right of the suspect:** to have timely notice of charges filed against him (Article 60(1)); to a **presumption of innocence** (Articles 66(1), (2)); **to the privilege against self-incrimination** (Articles 55(1)(a), (1)(b), 67(1)(g)); **to the assistance of counsel** (Articles 55(2)(c), 67(1)(b), (1)(d)); **to a speedy trial** (Article 67(1)(c)); **to cross-examine** adverse witnesses (Article 67(1)(e)); to **innocence unless the prosecutor has proved guilt “beyond reasonable doubt**” (Article 66(3)); **and to be present at the trial** (Article 63). ¶ Third, the **crimes within the ICC’s jurisdiction under which a U.S. citizen could be indicted are** generally **those** **that would ordinarily be administered through the U.S. military courts-**martial system or through extradition of the U.S. suspect to the foreign nation **where the criminal violation occurred.** Specifically in response to H.R. 4654, on July 25, 2000, Leigh submitted a statement to the House Committee on International Relations in which he asserted the constitutionality of any potential criminal proceedings by the ICC against a U.S. citizen. Leigh’s statement emphasizes that **members of the U.S. armed forces are precluded the right to jury trials under the Fifth Amendment of the Constitution**, which states: “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger.” Moreover, the language of the Sixth Amendment, which concerns criminal trials, extends the guarantee of a jury trial only to the state and district where the crime was committed: “In all criminal proceedings, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. . . .” Therefore, **a person who commits a crime in a foreign country risks extradition to that foreign country and, accordingly, has no constitutional guarantee of a jury trial.**

**3. NL – the ICC mirrors courtroom laws --- US negotiators ensured it AND the DOJ agrees.**

**Scharf 18** [Michael Scharf, Professor of Law & Director of the Center for International Law and Policy @ New England School of Law and Adviser of the US Department of State, 8-2-2018, The Case for Supporting the International Criminal Court, WashU Law, https://law.washu.edu/wp-content/uploads/2018/10/The-Case-For-Supporting-the-International-Criminal-Court.pdf, Willie T.] \*\*brackets in original\*\*

**Rebutting the Constitutional Arguments ¶** Against the ICC Much of Lee Casey's argument against the ICC concerns the constitutionality of U.S. participation in the Court. But, as Yale Law School constitutional Law professor Ruth Wedgwood has written, there are three reasons why we must conclude **there "is no forbidding constitutional obstacle to U.S. participation in the Rome Treaty**."[26] ¶ First, **the ICC includes procedural protections negotiated by the U.S. Department of Justice** representatives at Rome **that closely follow the guarantees and safeguards of the American Bill of Rights.** **These including a Miranda-type warning, the right to defense counsel, reciprocal discovery, the right to exculpatory evidence, the right to speedy and public trial, the right to confront witnesses, and a prohibition on double jeopardy. ¶** The only significant departures from U.S. law are that the ICC employs a bench trial before three judges rather than a jury, and it permits the Prosecutor to appeal an acquittal (but not to retry a defendant after the appeals have been decided). There were good reasons for these departures: For grave international crimes, qualified judges who issue detailed written opinions should be preferred over lay persons who issue unwritten verdicts. And if the trial judges misinterpret the applicable international law, whether in favor or to the detriment of the accused, an appeal is important to foster uniform interpretation of international criminal law. ¶ Here, I would like to point out that Lee Casey is absolutely wrong in his assertion that the Yugoslavia Tribunal, the Rwanda Tribunal, and the ICC allow anonymous witnesses (which would violate the U.S. Constitution's confrontation clause). Although the Yugoslavia Tribunal ruled in an early case that anonymous witnesses might be permitted under certain circumstances, **it has in fact never permitted witnesses to testify anonymously** (even in that case**), and the use of such testimony is prohibited under the ICC's Rules of Procedure.¶** Second, **the United States has used its treaty power in the past to participate in other international tribunals that have had jurisdiction over U.S. nationals**, **such as the Yugoslavia Tribunal** which was established by the Security Council pursuant to a treaty -- the U.N. Charter. Like the ICC, the Yugoslavia Tribunal employs judges rather than a jury, and permits the Prosecutor to appeal acquittals. Moreover, **the U.S. Congress has approved legislation authorizing U.S. courts to extradite indicted persons** (including those of U.S. nationality) to the Yugoslavia Tribunal where there exists an order for their arrest and surrender. And this **legislation has been upheld in a recent federal court case. ¶** Third, the **offenses within the ICC's jurisdiction** **would** **ordinarily be handled through military courts-martial**, **which do not permit jury trial**, or through extradition of offenders to foreign nations, which often utilize bench **trials and do not employ American notions of due process**. It should be noted that **U.S. federal courts have upheld the extradition of Americans to such foreign jurisdictions** for actions that took place on U.S. soil but had an effect abroad.[27] ¶ At the conclusion of the Senate Foreign Relations Committee's hearings on the ICC in July 1998, the Committee submitted several questions about the Constitutionality of U.S. participation in the ICC for the Department of Justice to answer for the record. The answers were prepared by Lee Casey's former colleagues in the Department's Office of Legal Counsel. This part of the Committee's published report should be required reading for anyone who has serious concerns about the Constitutionality of the ICC. **The Department of Justice** specifically **found that U.S. ratification of the Rome Treaty** **and surrender of persons including U.S. nationals to the ICC would not violate article III**, **section 2 of the Constitution nor any of the provisions of the Bill of Rights**.[28] **Case closed!**

Waldron talks about restricting federal spending, gpc??